

AMENDED IN ASSEMBLY APRIL 30, 2003  
AMENDED IN ASSEMBLY FEBRUARY 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 151**

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**Introduced by Assembly Member Vargas**  
*(Coauthors: Assembly Members Firebaugh, Montanez, Mullin, and Yee)*

January 21, 2003

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An act to add Section 41514.15 to the Health and Safety Code, relating to air pollution, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 151, as amended, Vargas. Air pollution: importation of electrical energy: mitigation fee.

(1) Existing law designates air pollution control districts and air quality management districts as having the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law also designates the State Air Resources Board as the state entity responsible for the coordination and review of all levels of government in their efforts to control air pollution.

This bill would require any person that imports electrical energy into the state, or causes electricity to be imported into the state, to, *commencing January 1, 2004*, pay up to a \$0.001 per kilowatthour air contaminant emission mitigation fee for that electricity, but not to exceed the cost of mitigation, as determined by the state board. *The bill would authorize the state board, commencing January 1, 2006, to reduce that fee to a lower amount, upon making a determination that*

*the lower fee amount would further enhance reductions of emissions of air contaminants.* The bill would impose the fee only if the electricity is produced by an electrical generating facility, as defined, that *is* located within an air basin shared by a district and Mexico and located in Mexico within 100 kilometers of the United States border. Additionally, under the bill, the fee would only apply if the electrical generating facility’s initial production of electricity occurred after January 1, 2003, and the state board determines that the electrical generating facility was not constructed using the best available control technology (BACT) for air contaminants.

The bill would establish the Imported Electricity Air Pollution Mitigation Subaccount in the Air Pollution Control Fund, and would require the air contaminant emission mitigation fees to be deposited in that subaccount. The bill would make the moneys deposited in the subaccount from the mitigation fees continuously appropriated without regard to fiscal years, thereby making an appropriation.

The bill would require the state board to distribute the revenues generated from the mitigation fees to each district in the state that the state board determines is directly impacted by emissions of air contaminants from those electrical generating facilities, and would require each district receiving those revenues to fund projects within their jurisdiction to mitigate the environmental or health impacts of electricity generation facilities. By prescribing additional duties on districts, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 41514.15 is added to the Health and
- 2 Safety Code, to read:
- 3 41514.15. (a) Any person that imports electrical energy into
- 4 the state, or causes electricity to be imported into the state, shall
- 5 pay an electrical generation fee in the amount described in



1 subdivision (b) to the state board to mitigate the air pollution  
2 caused by the generation of that electricity, if the electrical  
3 generating facility that generated the electricity meets all of the  
4 following criteria:

5 (1) Is located within an air basin shared by a district and  
6 Mexico, as determined by the state board.

7 (2) Is located in Mexico.

8 (3) Is located within 100 kilometers of the United States border.

9 (4) First produced electricity after January 1, 2003.

10 (5) Was not constructed using the best available control  
11 technology (BACT) for air contaminants, as determined by the  
12 state board.

13 (b) ~~The~~ *Commencing January 1, 2004, the* electricity  
14 generation mitigation fee described in subdivision (a) shall be  
15 assessed by the state board at a rate of not more than \$0.001 per  
16 kilowatthour of electricity that is imported into the state, but not  
17 to exceed the cost that the state board determines is necessary to  
18 mitigate the environmental or health impacts of electricity  
19 generation facilities meeting the criteria described in subdivision  
20 (a) and any associated administrative costs to each impacted  
21 district. *Commencing January 1, 2006, the state board may impose*  
22 *a fee less than the \$0.01 per kilowatthour of electricity imposed by*  
23 *this subdivision, if the state board determines that the lower fee*  
24 *amount would further enhance reductions of emissions of air*  
25 *contaminants.*

26 (c) The fees collected by the state board pursuant to subdivision  
27 (a) shall be deposited into the Imported Electricity Air Pollution  
28 Mitigation Subaccount, which is hereby established in the Air  
29 Pollution Control Fund. Notwithstanding Section 13340 of the  
30 Government Code, moneys deposited in the subaccount pursuant  
31 to this section shall be continuously appropriated to the state board,  
32 without regard to fiscal years, for the purposes described in  
33 subdivision (d).

34 (d) (1) The state board shall distribute the revenues that are  
35 deposited in the subaccount pursuant to this section to each district  
36 that the state board determines is directly impacted by emissions  
37 of air contaminants from an electrical generating facility that  
38 meets the criteria described in subdivision (a), in the proportion  
39 that the state board determines the district is impacted.



1 (2) A district receiving revenues pursuant to paragraph (1) shall  
2 utilize those moneys to fund projects within their jurisdiction that  
3 the district determines will mitigate the environmental or health  
4 impacts of electricity generation facilities meeting the criteria  
5 described in subdivision (a).

6 (e) For the purposes of this section, “electrical generating  
7 facility” means every electrical generating unit of a powerplant  
8 that is located at a common site in Mexico. If more than one  
9 electrical generating unit exists at a powerplant project, all of the  
10 electrical generating units shall be deemed to be part of one  
11 electrical generating facility.

12 SEC. 2. No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 a local agency or school district has the authority to levy service  
15 charges, fees, or assessments sufficient to pay for the program or  
16 level of service mandated by this act, within the meaning of  
17 Section 17556 of the Government Code.

